UNITED
NATIONS

CCPR

International Covenant on Civil and Political Rights

Distr.
GENERAL
CCPR/C/79/Add.89
6 April 1998
Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Sixty-second session

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the

Human Rights Committee

Zimbabwe

1. The Committee considered the initial report of Zimbabwe (CCPR/C/74/Add.3) at its 1650th meeting (CCPR/C/SR.1650), held on 25 March 1998, and at its 1651st meeting (CCPR/C/SR. 1651), held on 26 March 1998. It adopted the following concluding observations on 3 April 1998 at its 1664th meeting (CCPR/C/SR. 1664).

A. Introduction

2. The Committee welcomes the initial report of Zimbabwe, which was prepared in partial conformity with the Committee's guidelines. The

Committee regrets the considerable delay in the submission of the report and notes that, while providing detailed information on prevailing legislation in the field of human rights in Zimbabwe, the report does not contain sufficient specific information on the implementation of the Covenant in practice. Moreover, in the oral presentation by the delegation, only an incomplete picture regarding constitutional amendments emerged. The Committee appreciates the willingness of the State party to engage in a frank and open dialogue and welcomes its offer to furnish further and more detailed written information.

B. Positive aspects

3. The Committee welcomes the on-going review of domestic legislation and customary law in order to ensure their compatibility with the Covenant, particularly in the area of women's rights. The Committee welcomes the recent constitutional amendment which includes gender as a prohibited ground of discrimination.

4. The Committee welcomes the decisions of the Supreme Court upholding rights protected by the Covenant.

5. The Committee welcomes the establishment of the Office of the Ombudsman, with power to investigate citizens' complaints concerning alleged violations of human rights by officials and the establishment

of an Inter-Ministerial Committee on Human Rights and International Humanitarian Law.

6. The Committee welcomes police training by non-governmental organizations, and notes the efforts undertaken by Zimbabwe to integrate human rights education in the school curricula.

7. The Committee commends the provision of statistics on AIDS and the efforts undertaken to incorporate AIDS/HIV awareness campaigns in the school curricula.

C. Subjects of concern and Committee's recommendations

8. The Committee notes with concern the persistence of behavioral attitudes in the society as well as cultural and religious practices which impede the full enjoyment of human rights. The Committee encourages the State party to take necessary legislative and other measures to correct this situation.

9. The Committee notes that not all of the rights in the Covenant have been made part of domestic law and cannot be invoked directly before domestic courts. Notwithstanding the State party's stated policy of thorough legislative review in order to ensure compatibility of domestic legislation with the Covenant, the Committee notes the absence of effective institutional mechanisms to

ensure systematic implementation and monitoring of its provisions. The Committee is concerned about the increasing trend to enact Parliamentary legislation and constitutional amendments to frustrate decisions of the Supreme Court that uphold rights protected under the Covenant and overturn certain laws incompatible with it.

10. The Committee regrets that the Ombudsman has no power to initiate investigation suo motu but only where a complaint has been lodged. The Committee also regrets that the President, the President's Office, the Attorney-General and Secretary for Justice, Legal and Parliamentary Affairs and any member of their staff are specifically excluded from investigation by the Ombudsman. The Committee emphasizes the importance and necessity of setting up an effective independent institutional mechanism for monitoring the implementation of the Covenant.

11. The Committee recommends that the State party undertake a comprehensive review of its domestic legislation, including the Constitution, with a view to ensuring its full compatibility with the principles and provisions of the Covenant. The State party is urged to ensure that the Covenant rights are not restricted or overriden by incompatible legislation and that individuals are able to challenge in the courts the application of laws which affect their rights under the Covenant. The Committee recommends the

establishment of institutional mechanisms to ensure the integration of Covenant rights in law and practice.

12. The Committee is concerned about the duality of the legal statutory law and customary law), which potentially leads to unequal treatment between individuals, particularly in the area of marriage and inheritance laws. The Committee expresses concern that where customary law contravenes the Covenant or the statutory law, the customary law continues to be upheld and applied. The Committee is concerned about continued practices, in violation of various provisions of the Covenant, including articles 3 and 24, such as kuzvarita (pledging of girls for economic gain), kuripa ngozi (appeasement to the spirits of a murdered person), lobola (bride price), female genital mutilation, early marriage, the statutory difference in the minimum age of girls and boys for marriage. The Committee recommends that these and other practices which are incompatible with the Covenant (articles 3, 7, 23, 24 and others) be prohibited by legislation. Moreover, the Committee urges the Government to adopt adequate measures to prevent and eliminate prevailing social attitudes and cultural and religious practices hampering the realization of human rights by women.

13. While welcoming the Deceased Estate Succession Act 1997, under which a widow may inherit part of her deceased husband's estate, the Committee would appreciate further information on the steps taken to

ensure that widows are made aware of this right and that legal assistance be provided for their benefit.

14. The Committee is concerned about the extent and persistence of domestic violence against women. Legislation should be passed and make initial rape a criminal offence. Educational campaigns should be undertaken and institutional mechanisms should be established to address all forms of violence against women, and to provide assistance to victims of violence.

15. The Committee is concerned about the subordinate status of women in Zimbabwean society. Measures should be taken, in accordance with articles 3 and 26 of the Covenant, to eliminate discrimination against them and promote their role in society. There should be mechanisms to receive complaints, award appropriate remedies and report publicly on problems and progress.

16. The Committee expresses its concern over recent reports of excessive use of force by the police and the army during food riots in 1998. The Committee urges that all cases of alleged excessive use of force committed by members of the police or the army be investigated by an independent and impartial body, that action be taken against those officers found to have committed abuses and that compensation be paid to the victims; the State party should report to the Committee thereon. Intensive training and education programmes in the field of human rights for members of the army and

law enforcement officials are recommended. The Committee urges that the list of situations in which the use of lethal force is allowed under domestic law be reduced.

17. With regard to pre-trial detention, the Committee expresses concern that under the Criminal Procedure and Evidence Act the maximum period of detention of 48 hours before being brought to a judge or magistrate may be extended to 96 hours by a senior police officer, a practice which is incompatible with article 9 of the Covenant. The Committee is especially concerned that this practice provides opportunity for ill treatment and intimidation of detainees. The law relating to arrest and detention should be reviewed to bring it into conformity with article 9 of the Covenant and to ensure that individuals are not held in pre-trial custody for longer than 48 hours without court order. The Committee requests further information on the authority of the Attorney-General to deny bail to individuals in pre-trial detention.

18. While recognizing the efforts undertaken by the State party to improve prison conditions, the Committee is concerned about the conditions of overcrowding and disease in most prisons, resulting in a high incidence of death. The Committee recommends that these conditions be remedied in compliance with article 10 of the Covenant and that the State party provide qualitative and quantitative statistical data on the state of prisons in its next report.

19. The Committee notes with concern that the decision of the Supreme Court in Rattigan and Others v. Chief Immigration Officer and Others has been nullified by an amendment to the constitution, the effect of which is to deprive both women and men of the right to have their spouses registered as citizens, who as a consequence may not be allowed to reside in or enter the territory of Zimbabwe. The Committee considers that this amendment is incompatible with articles 17 and 23 of the Covenant. The Committee recommends that steps be taken to bring the law into compliance with the Covenant. The Committee is also concerned that children born to Zimbabweans abroad may not acquire Zimbabwen citizenship.

20. The Committee recommends that the State party review its laws with a view to reducing the number of offences for which capital punishment can be imposed, in compliance with article 6 of the Covenant and with the Committee's general comment thereon.

21. The Committee is concerned about recent amendments of section 15 of the Constitution which inter alia authorize corporal punishment. The Committee reaffirms its position that corporal punishment is incompatible with article 7 of the Covenant.

22. The Committee is concerned that the mass media as well as many other forms of expression, including artistic expression, are subject to censorship and are largely controlled by the Government. The

Committee is further concerned that the mass media as well as the law on civil and criminal defamation used by government officials to limit the freedom of the press. The Committee recommends that the restrictions on freedom of expression and the press be brought into strict compliance with article 19(3) of the Covenant.

23. The Committee expresses concern that immunity has been extended to individuals committing acts of political violence against government opponents. Moreover, the lack of political pluralism threatens the enjoyment of democracy in Zimbabwe. The Committee requests the State party to provide written information on the functioning of the electoral system, including a breakdown of the size of constituencies.

24. The Committee notes with concern that homosexuals are subjected to discrimination, e.g. that aliens deemed to be homosexuals may be defined as "Prohibited Persons" for immigration purposes and are subject to deportation. The Committee recommends that such legislation be brought into conformity with the Covenant.

25. The Committee notes with concern that the Postmaster-General is authorized to intercept any postal articles or telegrams on grounds of public security or the maintenance of law and to deliver these items to a specified State employee. The Committee recommends that steps be taken to ensure that interception be subject to strict

judicial supervision and that the relevant laws be brought into compliance with the Covenant.

26. The Committee is concerned over legal provisions which restrict freedom of movement in a manner incompatible with article 12 of the Covenant. It recommends that appropriate efforts be undertaken to ensure that all persons are able to move out of the country freely and without undue delay obtaining the necessary documents.

27. The Committee is concerned about safeguarding the cultural heritage of minorities in Zimbabwe and recommends, inter alia, that education be provided in minority languages.

28. The Committee recommends the introduction of appropriate awareness campaigns to create a deeper understanding of the Covenant and of the need to respect and protect human rights. Training programmes should be developed in order to acquaint public officials and professional groups working in the area of human rights, including public officials, law-enforcement and correctional officials, members of the judiciary, members of the defence forces, teachers, social workers and health care personnel. The Committee further encourages the State party to include the Covenant in school curricula and to give consideration to reflecting it in the training curricula.

29. The Committee recommends that the State party's next periodic report be comprehensive in character and that it address all the points raised in these concluding observations.

30. The Committee requests the State party to ensure the wide dissemination in Zimbabwe of the Covenant, the State party report and the Committee's concluding observations.